

## **NON-REFUNDABLE TICKETS AND TOURS: CAN THE ARMY BE HELD LIABLE?**

**Grafenwoehr Law Center**—"But we planned our vacation months ago, and the travel agent says the tickets are non-refundable!"

"I can't believe they cancelled the MWR tour because of heightened force protection!"

"My unit just got orders to move to Iraq next week. That means I can't fly to Texas on leave for Mother's Day. Isn't there some way to get my money back from the airline?"

Questions like these have been asked more often than ever during the build-up to Operation Iraqi Freedom and with the terror attacks of September 11, 2001 still looming in the background. Notwithstanding the disruptions that deployments and heightened force-protection cause, the United States government cannot lawfully pay claims for losses stemming from the cancellation of leave, trips, or tours because of the mission or for force-protection reasons.

Army Regulation 27-20, *Claims*, states at paragraph 11-6(c) that "a claimant may not be compensated for the inability to use non-refundable tickets." The Army Claims Service holds that airline tickets and vacation or travel packages are included in this prohibition.

The Military Claims Act, 10 United States Code § 2733, covers losses caused by the negligent or wrongful acts or omissions of servicemembers and civilian employees. The cancellation of leave, a trip, or a tour for mission or force-protection reasons is by definition neither negligent nor wrongful. While the cancellation of leave, a trip, or tour may be considered wrongful interference with a contractual right, payment of such claims is barred under the Military Claims Act.

Further, a Commander may in the exercise of his discretion order the cancellation of leave, a trip, or tour for mission or force-protection reasons. The Military Claims Act prohibits paying claims arising from a Commander's exercise of discretion, even in cases where he has abused his discretion.

Think carefully before you buy non-refundable tickets! While you will always pay a premium for refundable or exchangeable tickets, you can think of the difference in price as a form of insurance. Better to spend \$700 for a refundable ticket than \$500 for a non-refundable one if there is even the slightest possibility that you will not be able to travel on the dates you planned.

For questions about claims within the 100th Area Support Group, call Grafenwoehr Law Center, DSN 475-8428/civilian (09641) 838 428; Hohenfels Law

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